

APPLICANT:
Ann Marie Spakowski

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

REQUEST:
A variance to allow a sunroom within
the required 40 foot rear yard setback in a
R2/COS District

HEARING DATE: March 17, 2004

Case No. 5400

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Ann Marie Spakowski

LOCATION: 3216 Woodspring Drive /Lou Mar subdivision, Abingdon
Tax Map: 61 / Grid: 1F / Parcel: 424 / Lot: 23
First Election District

ZONING: R2 / Urban Residential/Conventional with Open Space ("COS")

REQUEST: A variance pursuant to Section 267-36B, Table V, of the Harford County Code to allow a sunroom within the required 40 foot rear yard setback (proposed 32 feet) in a R2/COS District.

TESTIMONY AND EVIDENCE OF RECORD:

Ann Marie Spakowski, the Applicant, described her property as a newly constructed townhouse located off Woodspring Drive in the Lou Mar subdivision. Ms. Spakowski desires to construct a one story, 12 foot by 10 foot glass and screened-in sunroom on a wood foundation to be elevated slightly above ground elevation. The lot requires a 40 foot rear yard setback. The proposed sunroom would be 32 feet off the rear lot line. Accordingly, an 8 foot variance is necessary.

Ms. Spakowski testified that a Giant Supermarket property abutted her townhouse property directly to its rear. Photographs in the file, and the Staff Report, also demonstrate that the rear lot slopes slightly downward, and then sharply upward to the Giant Supermarket property, on which is located a storm water management pond.

Ms. Spakowski testified that there are similar sunrooms on other townhouses in her neighborhood. Because of her limited backyard, however, she is unable to build a similar sunroom without the requested variance.

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Next for the Applicant testified Daren Harbaugh. Mr. Harbaugh identified himself as a representative of Patio Enclosures, Inc., the company retained by the Applicant to construct the sunroom. Mr. Harbaugh described the proposed sunroom. He identified other similar sunrooms in the area, and identified photographs of those other, similar sunrooms.

According to Mr. Harbaugh the rear of the subject property is the only appropriate place for the sunroom. The subject property, and surrounding homes, are very nice properties, and he believes that the other sunrooms in the area have improved the value and attractiveness of the neighborhood.

The subject property differs from the other properties on which sunrooms have been built in that those other properties have sufficiently deep rear yards so that variances are not necessary. However, because the subject property is located on a circle, it uncharacteristically has a very much reduced rear yard. Accordingly, the sunroom, while typical of others in the neighborhood, cannot be built without the variance.

Mr. Harbaugh stated that the neighbors and the property association know of the proposal for the sunroom, and have no objections. The siding and roof of the proposed sunroom will match that of the existing townhouse.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune echoed the report and recommendation of the Department which found the property to be unique. When developed, the houses in the area of the subject property, all of which are on Woodspring Drive, were staggered at varying distances off Woodspring Drive. This was done in order to maintain the uniform streetscape. However, the result is that the Applicant's property is set back from Woodspring Drive farther than otherwise necessary, and has a shallower rear yard than other properties. While other property owners are able to construct the proposed sunroom without a variance, the Applicant cannot because of this unique configuration. The resulting shallowness of the rear yard makes such construction impossible without the granting of the variance.

Mr. McClune did not believe that landscaping was necessary in order to mitigate impact. Mr. McClune believes there would be no adverse impact on the adjoining properties or the neighborhood if the variance was granted. Mr. McClune pointed out that the rear neighbor is a Giant Supermarket which maintains a storm water sediment pond directly to the rear of the subject property.

There was no evidence or testimony presented in opposition.

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APPLICABLE LAW:

The Applicant is requesting an area variance to the requirements of Section 267-36B, Table V, of the Harford County Code.

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

(2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.

C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The subject property is unique compared to other homes in its neighborhood due to its shallow rear yard, created as a result of its designed setback off Woodspring Drive. If it were not for this staggered setback, the requested variance would not be necessary.

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As a result of this uniqueness, the requested sunroom, which is a common addition to other homes in the neighborhood, cannot be built without the granting of a variance. The Applicant accordingly suffers a practical difficulty.

The variance requested is no greater than that necessary to accomplish proposed use, and will have no adverse impact on the adjoining properties or the neighborhood.

It is further found, after review of Section 267-9I Limitations, Guides and Standards of the Harford County Code, that there would be no impact on any of the required considerations of that section.

CONCLUSION:

For the above reasons it is recommended that the requested variance to the rear yard setback be granted, subject to the Applicant obtaining all necessary permits and inspections.

Date: April 6, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner